

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4444 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

ARJUNSINH BALDEVSINH RATHOD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4444 of 2003
MRS PREMLATA B KADAM for Petitioner No. 1
MS HARSHA DEVANI AGP for Respondent No. 1-2
MS PJ DAVAWALA for Respondent No. 3
RULE SERVED for Respondent No. 4
-

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT

Date of decision: 28/05/2003

ORAL JUDGEMENT

1. The petitioner-detenu has assailed the order of detention dated 19-02-2003 passed by the respondent no.2 under the provisions under Section 3(2)(B) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (for short 'the Act') in this writ petition. The petitioner is under detention. The petitioner was supplied with the grounds of detention and the place where he was detained was made known. The said detention order is under challenge.

2. Learned advocate appearing for the petitioner has contended that there is a delay of more than five months in recording the order of detention from the date of last offence registered against the petitioner, and the said delay is not explained, and therefore, it is fatal. On this sole ground, the impugned detention order is sought to be quashed.

3. In so far as the delay is concerned, the District Magistrate, Ahmedabad, the respondent no.2, has filed detailed affidavit-in-reply. In paragraph I the delay is very well explained. No counter return or affidavit or rejoinder is filed after the filing of the return by the respondents. It is very clear from the affidavit-in-reply that the matter was under consideration and in process, through various channels and Departments of the Government, right from 13-09-2002 till 17-02-2003. What had transpired and what event had occurred and how and who had dealt with the file during the entire period is succinctly articulated in paragraph I in a tabulated form, which has not been, subsequently, controverted. In the opinion of this Court, it is sufficiently explained and accounted for, and therefore, it cannot be said that the detaining authority has delayed in making the order of detention under challenge in this petition. Therefore, the sole ground, agitated before this Court, must fail. Both the respondents have filed affidavits.

4. The petition, therefore, shall stand dismissed. Rule shall stand discharged without any order as to costs.

(J.N. BHATT, ACTING C.J.)

[SNDEVU]
P.S.